

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland, Colorado 80537-0599



ATTORNEY DOCKET NO. 10003385-1

AFM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): S. Jeffrey Rosner

Serial No.: 09/912,012

Examiner: Quinones, Ismael C.

Filing Date: July 24, 2001

Group Art Unit: 2686

Title: Wireless Communications System Fully Integrated with the Infrastructure of an Organization

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

TRANSMITTAL OF REPLACEMENT APPEAL BRIEF

Sir:

Transmitted herewith is the Replacement Appeal Brief with respect to the Notification of Non-Compliant Appeal Brief mailed on November 9, 2005. This Appeal Brief is being filed pursuant to 37 CFR 41.37 within one month of the date of the Notification of Non-Compliant Appeal Brief. No fee is required for filing of this Appeal Brief.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)(1)-(5)) for the total number of months checked below:

- | | | |
|--------------------------|--------------|-----------|
| <input type="checkbox"/> | one month | \$ 120.00 |
| <input type="checkbox"/> | two months | \$ 450.00 |
| <input type="checkbox"/> | three months | \$1020.00 |
| <input type="checkbox"/> | four months | \$1590.00 |

☐ The extension fee has already been filed in this application.

☒ (b) Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **50-1078** the sum of \$0.00. At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account **50-1078** pursuant to 37 CFR 1.25.

A duplicate copy of this transmittal letter is enclosed.

☒ I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit: December 7, 2005 OR

☐ I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Date of Facsimile:

Typed Name: Michele Morrow

Signature: Michele Morrow

Respectfully submitted,

S. Jeffrey Rosner

By

Gerald H. Glanzman
Gerald H. Glanzman
Attorney/Agent for Applicant(s)

Reg. No. 25,035

Date: December 7, 2005

Telephone No. 972-385-8777



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **S. Jeffrey Rosner**

Serial No. **09/912,012**

Filed: **July 24, 2001**

For: **Wireless Communications
System Fully Integrated with the
Infrastructure of an Organization**

§
§
§
§
§
§
§
§
§

Group Art Unit: **2686**

Examiner: **Quinones, Ismael C.**

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Certificate of Mailing Under 37 C.F.R. § 1.8(a)

I hereby certify this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 7, 2005.

By:

Michele Morrow
Michele Morrow

REPLACEMENT APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notification of Non-Compliant Appeal Brief (37 C.F.R. 41.37) mailed November 9, 2005, and replaces the Replacement Appeal Brief filed June 3, 2005.

The fees required under § 41.20(B)(2), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: Agilent Technologies, Inc.

RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-13; 15-21

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: 14
2. Claims withdrawn from consideration but not canceled: NONE
3. Claims pending: 1-13 and 15-21
4. Claims allowed: NONE
5. Claims rejected: 1-13 and 15-21

C. CLAIMS ON APPEAL

The claims on appeal are: 1-13 and 15-21

STATUS OF AMENDMENTS

A Response after Final Rejection was filed on September 22, 2004; however, no claims were amended in the Response. An Advisory Action was mailed on November 18, 2004, and maintained the Final Rejection. Therefore, claims 1-13 and 15-21 on appeal herein are as amended in the Amendment filed May 10, 2004, and as finally rejected on July 27, 2004.

SUMMARY OF CLAIMED SUBJECT MATTER

A. CLAIM 1 - INDEPENDENT

The subject matter of claim 1 is directed to a wireless communications system for communicating with a computer infrastructure of an organization. The wireless communications system is designated by reference number **10** in **Figures 1** and **2**. **Figure 1** illustrates wireless communications system **10** within a designated area **18** of an organization, and is described beginning on page 8, line 5 and extending to page 9, line 7. **Figure 2** illustrates wireless communications system **10** in greater detail and is described beginning on page 9, line 8 and extending to page 12, line 2. With reference to **Figures 1** and **2**, the wireless communications system includes a portable unit **22** that includes a user interface **12** (page 9, lines 9-11); and a computer infrastructure interface **14** (page 8, lines 14-16). A voice recognition unit is associated with computer infrastructure interface **14** to permit a user **15** of portable unit **22** to communicate with computer infrastructure **17** by voice communication (**Figure 2**, page 9, lines 14-18). A wireless communications link **16** connects user interface **12** and computer infrastructure interface **14** (page 8, lines 8-10). The wireless communications link covers an area **18** designated by the organization for permitting a user of the portable unit to access the computer infrastructure when the portable unit is within the designated area **18** (**Figure 1**, page 8, lines 22-24, page 10, lines 3-17). At least one remote access node is provided for creating at least one extended designated area of designated area **18** for permitting a user of the portable unit to also access the computer infrastructure when the portable unit is within the at least one extended designated area (component **32** in **Figure 2** and component **62** in **Figure 3**, page 10, lines 17-20, page 13, line 23 to page 14, line 11).

B. CLAIM 15 – INDEPENDENT

The subject matter of claim 15 is directed to a combination of a computer infrastructure of an organization and a wireless communications system for enabling at least one individual to communicate with and utilize features and capabilities of the computer infrastructure. The computer infrastructure is designated by reference number **17** in **Figures 1** and **2**, and the at least one individual is designated as user(s) **15** in **Figures 1** and **2**. The wireless communications system is designated by reference number **10** in **Figures 1** and **2** and is described beginning on page 8, line 5 and extending to page 12, line 2. With reference

to **Figures 1 and 2**, the wireless communications system includes a portable unit **22** (page 9, lines 9-11) for each at least one individual (page 9, lines 11-14), each portable unit including a two-way user interface **12** (page 9, lines 12-14), and a computer infrastructure interface **14** (page 8, lines 14-16) as shown in **Figure 2**. A voice recognition unit and a voice generation unit is associated with the computer infrastructure interface (page 9, lines 14-18). A wireless communications link **16** is provided for connecting the user interface **12** for each portable unit **22** and computer infrastructure interface **14** (**Figure 1**, page 8, lines 8-10). The wireless communications link covers an area **18** designated by the organization for permitting each at least one individual to access the computer infrastructure by voice communication when the individual's respective portable unit is within the designated area **18** (**Figure 1**, page 8, lines 22-24, page 10, lines 3-17). At least one remote access node is provided for creating at least one extended designated area of designated area **18** for permitting at least one of the at least one individual to also access the computer infrastructure when the portable unit of the at least one of the at least one individual is within the at least one extended designated area (component **32** in **Figure 2** and component **62** in **Figure 3**, page 10, lines 17-20, page 13, line 23 to page 14, line 11).

C. CLAIM 21 - INDEPENDENT

The subject matter of claim 21 is directed to a wireless communications system for communicating with a computer infrastructure of an organization. The wireless communications system is designated by reference number **10** in **Figures 1 and 2**. **Figure 1** illustrates wireless communications system **10** within a designated area of an organization **18**, and is described beginning on page 8, line 5 and extending to page 9, line 7. **Figure 2** illustrates wireless communications system **10** in greater detail and is described beginning on page 9, line 8 and extending to page 12, line 2. With reference to **Figures 1 and 2**, the wireless communications system includes a portable communications unit **22** that includes a user interface **12** (page 8, lines 8-10), and a computer infrastructure interface **14** (page 8, lines 14-16). A wireless communications link **16** connects user interface **12** and computer infrastructure interface **14** (**Figure 1**, page 8, lines 8-10). The wireless communications link covers an area **18** designated by the organization for permitting a user of the portable communications unit to access the computer infrastructure when the portable unit is within the designated area **18** (**Figure 1**, page 8, lines 22-24, page 10, lines 3-17). At least one

remote access node is provided for creating at least one extended designated area of designated area 18 for permitting a user of the portable communications unit to also access the computer infrastructure when the portable communications unit is within the at least one extended designated area (component 32 in **Figure 2** and component 62 in **Figure 3**, page 10, lines 17-20, page 13, line 23 to page 14, line 11).

D. CLAIM 2 – DEPENDENT

The subject matter of claim 2, which depends from claim 1, is directed a wireless communications system in which the user interface 12 is a two-way voice interface (page 9, lines 11-14). A voice recognition unit and a voice generation unit 14 are associated with the computer infrastructure interface 14 to permit two-way voice communication between the user 15 and the computer infrastructure 17 (page 9, lines 14-18).

E. CLAIM 5 – DEPENDENT

The subject matter of claim 5, which depends from claim 3, is directed to a wireless communications system that comprises a cellular communications system 10 in which the cellular communications system operates at a bandwidth of less than 100kbits/sec. (page 12, lines 15-21).

F. CLAIM 11 – DEPENDENT

The subject matter of claim 11, which depends from claim 1, is directed to a wireless communications system in which the portable unit 22 is configured to be worn by the user 15 (page 14, line 19-page 15, line 3).

G. CLAIM 18 - DEPENDENT

The subject matter of claim 18, which depends from claim 15, is directed to a combination of a computer infrastructure of an organization and a wireless communications system **10** for enabling at least one individual to communicate with and utilize features and capabilities of the computer infrastructure **17**, in which each portable unit **22** is configured to be worn by the user **15** (page 14, line 19-page 15, line 3).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. GROUND OF REJECTION 1 (Claims 1-4, 6-10, 12, 13, 15-17 and 19-21)

Claims 1-4, 6-10, 12, 13, 15-17 and 19-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Cook (U.S. Patent No. 6,650,888).

B. GROUND OF REJECTION 2 (Claim 5)

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Cook (U.S. Patent No. 6,650,888) in view of Odenwalder (U.S. Patent No. 6,396,804).

C. GROUND OF REJECTION 3 (Claims 11 and 18)

Claims 11 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cook (U.S. Patent No. 6,650,888) in view of Wickstead (U.S. Patent Application Publication No. US2002/0142734).

ARGUMENT

A. GROUND OF REJECTION 1 (Claims 1-4, 6-10, 12, 13, 15-17 and 19-21)

Initially, it should be noted that in the Final Rejection, the Examiner states that claims 1-4, 6-10, 12-17 and 19-21 are rejected. Claim 14, however, was canceled in the Amendment filed May 10, 2004, and is no longer in the case. The following arguments, accordingly, refer to claims 1-4, 6-10, 12-13, 15-17 and 19-21 currently in the case and on appeal herein.

A.1 Claims 1, 3, 4, 6-10, 12, 13 and 21

Claims 1, 3, 4, 6-10, 12-13 and 21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Cook (U.S. Patent No. 6,650,888).

Cook discloses a system for handling transactions. In Cook, when a user enters an enterprise, a mobile telephone carried by the user is handed off from a public wireless network to a wireless network of the enterprise. While in the enterprise, the user is enabled to communicate with a transaction manager through a wireless interface to carry out various transactions. The wireless interface includes a capability of receiving a speech sample of the user for validation purposes, and if the user is validated, a transaction is authorized.

Claim 1 of the present application reads as follows:

1. A wireless communications system for communicating with a computer infrastructure of an organization comprising:
 - a portable unit including a user interface;
 - a computer infrastructure interface;
 - a voice recognition unit associated with said computer infrastructure interface, said voice recognition unit permitting a user of the portable unit to communicate with the computer infrastructure by voice communication;
 - a wireless communications link for connecting said user interface and said computer infrastructure interface, said wireless communications link covering an area designated by the organization for permitting a user of the portable unit to access said computer infrastructure when the portable unit is within the designated area; and
 - at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable unit to also access the computer infrastructure when the portable unit is within the at least one extended designated area.

A prior art reference anticipates a claimed invention under 35 U.S.C. § 102 only if every element of the claimed invention is identically shown in that single prior art reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of a claimed invention must be considered when

determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983).

Appellant respectfully submits that Cook does not identically show every element of the claimed invention arranged as they are in the claims; and, accordingly, does not anticipate the claims. With respect to claim 1, in particular, Cook does not teach or suggest “at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable unit to also access the computer infrastructure when the portable unit is within the at least one extended designated area” as recited in the claim. The Examiner refers to Col. 3, line 23 through Col. 4, line 7 and **FIG. 1**, items 121-123 and 125-127 of Cook as disclosing this feature. Appellant respectfully disagrees.

FIG. 1 of Cook illustrates a communication system **100** that includes a public network cell **110** and an enterprise **120**. **FIG. 1** also illustrates enterprise cells **125**, **126** and **127** within enterprise **120**. Cook describes the enterprise cells in Col. 3, lines 54-65 as follows:

Transceivers **121-123** communicate over the air interface with wireless communication device **102** when wireless communication device **102** is in their respective enterprise cells **125-126**. For example, transceiver **121** hands-off wireless communication device **102** to transceiver **123** in response to wireless communication device **102** moving from enterprise cell **125** to enterprise cell **127**. Transceivers **122-123** interface with communication device **102** and server **124** similar to transceiver **121**. Hand-offs occur between transceivers **121-123** as communication device **102** moves among the respective enterprise cells **125-127**.

In Cook, enterprise cells **125-127** are all located internally within enterprise **120** as clearly illustrated in **FIG. 1** of Cook. Enterprise cells **125-127** are not located externally of enterprise **120** and thus cannot be extended designated areas of a designated area as required in claim 1.

Furthermore, inasmuch as Cook does not disclose at least one extended designated area of a designated area, Cook also does not disclose “at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable unit to also access the computer infrastructure when the portable unit is within the at least one extended designated area” as recited in claim 1. In Cook, when communication device **102** moves from one enterprise cell to another enterprise cell within enterprise **120**, a hand off occurs between the transceivers associated with the enterprise cells.

Cook simply provides for wireless hand off from one transceiver to another transceiver as communication device **102** moves from one enterprise cell that is internal of enterprise 120 to another enterprise cell that is also internal of enterprise 120.

Furthermore, transceivers **121-123** in Cook never communicate with wireless communication device **102** when the device is not in an enterprise cell because control of the communication device is transferred back to a public wireless network, and the transceivers in Cook are no longer able to communicate with the user through the wireless network of the enterprise (see, for example, Col. 5, lines 5-24 of Cook). Cook, accordingly, not only fails to disclose at least one remote access node for creating at least one extended designated area of a designated area, but also teaches against providing such a capability in the system of Cook.

In the Advisory Action mailed November 18, 2004, the Examiner responds to Appellant's arguments regarding the failure of Cook to disclose at least one remote access node for creating at least one extended designated area of a designated area as follows:

The Examiner respectfully disagrees with the Applicant's argument because Cook clearly discloses wherein an enterprise or organization includes a plurality of remote access nodes or transceivers permitting access to an individual area within the respective designated area of said transceivers (Wherein the enterprise comprises transceivers or remote access nodes which create respective designated areas such as an enterprise cell for providing coverage within the enterprise designated area, therefore extending the enterprise designated area by the addition of the transceivers belonging to the enterprise: col. 3, line 23 thru col. 4, line 7; Fig. 1, items 121-123 and 125-127). In addition the Applicant suggests that Cook teaches against providing an extended designated area relying [sic] in the fact that if the user leaves the enterprise control of the communication device is transferred back to a public wireless network, and is no longer able to communicate with the user through the wireless network of the enterprise. It is noted and cited in Applicant's specifications that an individual may obtain access from the computer infrastructure of an organization from any location within a designated area of the organization (Page 4, Lines 16-19); it is further specified wherein access is provided when the individual is away from his/her work station or other location, but is still located within a designated area of an organization, wherein the designated area can be a limited area that encompasses, for example, the facilities of an organization the property on which an organization is located or a geographic area around the organization where individuals of the organization may be located (Page 10, lines 3-20), wherein Cook teaches and disclose the same capability and functionality for providing access to the enterprise while located within it as so does Applicant's invention.

Advisory Action mailed November 18, 2004, Continuation Sheet

As pointed out in Col. 3, lines 54-65 of Cook reproduced above, transceivers 121-123 in Cook communicate over the air interface with wireless communication device 102 when wireless communication device 102 is in their respective enterprise cells 125-127. For example, transceiver 121 hands off wireless communication device 102 to transceiver 123 in response to wireless communication device 102 moving from enterprise cell 125 to enterprise cell 127. Transceivers 121-123 in Cook function to communicate with wireless communication device 102 only when the wireless communication device is in an enterprise cell as clearly shown in **Figure 1** of Cook; and all enterprise cells in Cook are in designated area 120 of the enterprise in Cook. Transceivers 121-123 in Cook never communicate with wireless communication device 102 when the device is not in an enterprise cell because, as indicated above, control of the communication device is transferred back to a public wireless network, and the transceivers in Cook are no longer able to communicate with the user through the wireless network of the enterprise.

The Examiner also appears to contend that Cook anticipates claim 1 because Cook teaches the same capability and functionality for providing access to the enterprise while located within the enterprise. Appellant respectfully disagrees.

Claim 1 does recite “a wireless communications link for connecting said user interface and said computer infrastructure interface, said wireless communications link covering an area designated by the organization for permitting a user of the portable unit to access said computer infrastructure when the portable unit is within the designated area. However, claim 1 additionally recites “at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable unit to also access the computer infrastructure when the portable unit is within the at least one extended designated area. Cook nowhere discloses “permitting a user of the portable unit to also access the computer infrastructure when the portable unit is within the at least one extended designated area”.

As described on page 14, lines 5-11 of the present application:

In particular, according to embodiments of the invention, the designated area of the organization can comprise one or more extended designated areas created by the provision of remote access nodes at selected locations to provide simple, voice actuated functionality at locations that are more remote from the organization infrastructure. Examples may include a wireless link to a salesman's automobile or briefcase that provides a remote “virtual office” with voice-actuated capability; a link to a user's home, and the like.

Cook does not disclose “at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable unit to also access the computer infrastructure when the portable unit is within the at least one extended designated area”, and does not disclose a wireless communications system that includes such a capability.

For at least all the above reasons, Cook does not anticipate claim 1, and claim 1 should be allowable over Cook in its present form.

Claims 3, 4, 6-10 and 12-13 depend from and further restrict claim 1 and should also be allowable in their present form, at least by virtue of their dependency.

Independent claim 21 reads as follows:

21. A wireless communications system for communicating with a computer infrastructure of an organization comprising:
a portable communications unit including a user interface;
a computer infrastructure interface;
a wireless communications link for connecting said user interface and said computer infrastructure interface, said wireless communications link covering an area designated by the organization for permitting a user of the portable communications unit to access said computer infrastructure when the portable communications unit is within the designated area; and
at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable communications unit to also access the computer infrastructure when the portable communications unit is within the at least one extended designated area.

For similar reasons as discussed above with respect to claim 1, Cook does not disclose “at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable communications unit to also access the computer infrastructure when the portable communications unit is within the at least one extended designated area”. Independent Claim 21, accordingly, is also not anticipated by Cook and should be allowable thereover in its present form.

Therefore, claims 1, 3, 4, 6-10, 12-13 and 21 are believed to patentably distinguish over Cook, and it is respectfully requested that the Board reverse the Examiner’s Final Rejection of those claims.

A.2 Claim 2

Claim 2 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Cook (U.S.

Patent No. 6,650,888).

Claim 2 depends from and further restricts claim 1, and should be allowable by virtue of its dependency. In addition, claim 2 recites additional structure that is not disclosed by Cook. In particular, Claim 2 reads as follows

2. The wireless communications system according to Claim 1, wherein said user interface comprises a two-way voice interface and wherein a voice recognition unit and a voice generation unit are associated with said computer infrastructure interface to permit two-way voice communication between said user and said computer infrastructure.

Cook does not disclose that “a voice recognition unit and a voice generation unit are associated with said computer infrastructure interface to permit two-way voice communication between said user and said computer infrastructure” as recited in Claim 2. In Cook, the transaction manager interface contains a voice recognition unit to receive a user speech sample for validation purposes. A voice generation unit, however, is not associated with the interface to permit two-way voice communication.

In the Advisory Action mailed November 18, 2004, the Examiner states:

Applicant suggests that Cook does not disclose that a voice generation unit is associated with the interface of the transaction manager of the enterprise to permit two-way voice communication. The Examiner respectfully disagrees with the Applicant's argument because Cook clearly discloses wherein the computer interface provided by the enterprise or organization provides a wireless interface such as transceivers for providing over the air wireless “two-way communications” services such as voice communications (col. 1, lines 28-33), which is inherently known in the art of wireless communications, furthermore Cook discloses an example of “two-way communications” as the user of a wireless communication device (i.e., a telephone; col. 3, lines 32-33) requests more information to the computer infrastructure or server of the enterprise/organization and according to a position or location criteria the computer infrastructure of the organization transfers information to the wireless communication device (col. 3, line 66 thru col. 4, line 7; col. 5, lines 12-21). In addition Cook discloses wherein the transceivers (Fig. 1, items 121-123) are similar to the conventional base stations in public network (col. 3, lines 47-49) for providing wireless communications (i.e., voice conversations), furthermore the enterprise or organization comprising more than one wireless communication device (Fig. 1, item 102), for enabling communication voice conversation within the enterprise.

Advisory Action mailed November 18, 2004, Continuation Sheet.

The Examiner appears to concede that Cook does not explicitly disclose that “a voice

recognition unit and a voice generation unit are associated with said computer infrastructure interface” as recited in claim 2, but suggests that a voice recognition unit and a voice generation unit are inherent in the disclosure of Cook. Appellant respectfully disagrees.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic *In re Rijckaert*, 9 F.3d 1532, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

Appellant submits that the Examiner’s conclusions are simply nowhere supported in the clear disclosure in Cook. Cook only discloses that the transaction manager interface contains a voice recognition unit for the specific purpose of receiving a user speech sample for validation purposes. A voice generation unit is not necessary to validate a speech sample, and would not suggest to persons of ordinary skill in the art that the transaction manager must inherently include both a voice recognition unit and a voice generation unit to permit two-way voice communication.

The Examiner has not provided evidence to support the position that a two-way voice communication capability is necessarily present in Cook, and has not fulfilled the burden of establishing inherency. Cook simply does not disclose that “a voice recognition unit and a voice generation unit are associated with said computer infrastructure interface to provide two-way voice communication” as recited in claim 2, and cannot anticipate claim 2.

Claim 2, accordingly, is not anticipated by Cook in its own right as well as by virtue of its dependency from Claim 1, and it is respectfully requested that the Board reverse the Examiner’s Final Rejection of the claim.

A.3 Claims 15-17, 19 and 20

Claims 15-17, 19 and 20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Cook (U.S. Patent No. 6,650,888).

Independent Claim 15 reads as follows:

15. In combination, a computer infrastructure of an organization and a wireless communications system for enabling at least one individual to communicate with and to utilize features and capabilities of said computer infrastructure, said wireless communications system comprising:

a portable unit for each said at least one individual, each portable unit including a two-way voice interface;

a computer infrastructure interface;

a voice recognition unit and a voice generation unit associated with said computer infrastructure interface;

a wireless communications link for connecting the user interface for each portable unit and the computer infrastructure interface, the wireless communications link covering an area designated by the organization for permitting each at least one individual to access the computer infrastructure by voice communication when the individual's respective portable unit is within the designated area; and

at least one remote access node for creating at least one extended designated area of said designated area for permitting at least one of said at least one individual to also access the computer infrastructure when the portable unit of said at least one of said at least one individual is within the at least one extended designated area.

For similar reasons as discussed above with respect to claim 1, Cook does not disclose "at least one remote access node for creating at least one extended designated area of said designated area for permitting at least one of said at least one individual to also access the computer infrastructure when the portable unit of said at least one of said at least one individual is within the at least one extended designated area". In addition, as discussed above with respect to claim 2, Cook also does not disclose "a voice recognition unit and a voice generation unit associated with said computer infrastructure interface" as recited in claim 15.

Claim 15, accordingly, is also not anticipated by Cook and should also be allowable in its present form.

Claims 16, 17, 19 and 20 depend from and further restrict claim 15, and are also not anticipated by Cook, at least by virtue of their dependency.

B. GROUND OF REJECTION 2 (Claim 5)

The Examiner has rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Cook (U.S. Patent No. 6,650,888) in view of Odenwalder (U.S. Patent No. 6,396,804).

A fundamental notion of patent law is the concept that invention lies in the new combination of old elements. Therefore, a rule that every invention could be rejected as obvious by merely locating each element of the invention in the prior art and combining the references to formulate an obviousness rejection is inconsistent with the very nature of "invention." Consequently, a rule exists that a combination of references made to establish a

prima facie case of obviousness must be supported by some teaching, suggestion, or incentive contained in the prior art which would have led one of ordinary skill in the art to make the claimed invention.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). The requirements for establishing a *prima facie* case of obviousness in view of a combination of references are set forth in detail in Section 2142 of the MPEP and include the requirements that the Examiner explain in detail why the combination of the teachings is proper, that the Examiner provide a clear and convincing line of reasoning as to why an artisan would have found the claimed invention obvious in light of the teachings of the references, and that the Examiner provide a showing that it is the prior art and not the Applicant's own disclosure that teaches the combination asserted by the Examiner.

Odenwalder was applied as disclosing a cellular communications system that operates at a bandwidth of less than 100 kbits/second. In the Final Office Action dated July 27, 2004, the Examiner asserted that it would have been obvious to one with ordinary skill in the art at the time the invention was made "to have Cook wireless communications system having a wireless link, further comprising a cellular communication system, operating at a rate less than 100kbits/sec as taught by Oldenwalder. For the purpose of transferring low bandwidth transmission data such as voice within the cellular communication system". In the Advisory Action mailed November 18, 2004, the Examiner further states "Oldenwalder clearly suggest that low data applications such as operate under a low bandwidth under 100kbits/sec and propose an invention for adaptively providing high data rate communications in terms of bandwidth efficiency (see. Col. 2, lines 7-67)".

Appellant respectfully submits that the Examiner has not set forth the basis of the rejection of claim 5 in sufficient detail to satisfy the requirements for establishing a *prima facie* case of obviousness with respect to the claim. Appellant respectfully submits that the Examiner has not provided a clear and convincing line of reasoning as to why an artisan would have found the claimed invention obvious in light of the teachings of Cook and Odenwalder, and has not provided a showing that it is the prior art and not the Appellant's own disclosure that has prompted the combination of Cook and Odenwalder asserted by the Examiner.

Furthermore, Odenwalder does not supply the deficiencies in Cook as described.

above, and claim 5 should also be allowable in its present form, at least by virtue of its dependency.

Therefore, claim 5 is believed to patentably distinguish over Cook in view of Odenwalder, and it is respectfully requested that the Board reverse the Examiner's Final Rejection of the claim.

C. GROUND OF REJECTION 3 (Claims 11 and 18)

The Examiner has rejected claims 11 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Cook in view of Wickstead (U.S. Publication No. US2002/0142734).

A fundamental notion of patent law is the concept that invention lies in the new combination of old elements. Therefore, a rule that every invention could be rejected as obvious by merely locating each element of the invention in the prior art and combining the references to formulate an obviousness rejection is inconsistent with the very nature of "invention." Consequently, a rule exists that a combination of references made to establish a *prima facie* case of obviousness must be supported by some teaching, suggestion, or incentive contained in the prior art which would have led one of ordinary skill in the art to make the claimed invention.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). The requirements for establishing a *prima facie* case of obviousness in view of a combination of references are set forth in detail in Section 2142 of the MPEP and include the requirements that the Examiner explain in detail why the combination of the teachings is proper, that the Examiner provide a clear and convincing line of reasoning as to why an artisan would have found the claimed invention obvious in light of the teachings of the references, and that the Examiner provide a showing that it is the prior art and not the Applicant's own disclosure that teaches the combination asserted by the Examiner.

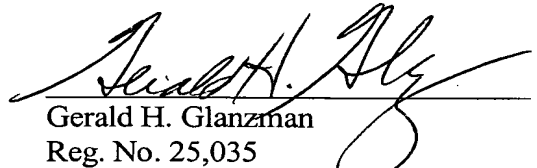
Wickstead was applied as disclosing a portable unit designed to be comfortably worn on a user's wrist. In the Final Office Action dated July 27, 2004, the Examiner states that it would have been obvious to one with ordinary skill in the art at the time the invention was made "to have Cook portable unit, configured to be worn by the user of the portable unit as taught by Wickstead. For the purpose of, providing comfort to a user when carrying a portable

unit or wireless communication device". In the Advisory Action mailed November 18, 2004, the Examiner further states "Wickstead clearly suggest an invention to provide a wireless telephone that can be comfortably worn (See Paragraph 3).

Appellant respectfully submits that the Examiner has not set forth the basis of the rejection of claims 11 and 18 in sufficient detail to satisfy the requirements for establishing a *prima facie* case of obviousness with respect to the claims. Appellant respectfully submits that the Examiner has not provided a clear and convincing line of reasoning as to why an artisan would have found the claimed invention obvious in light of the teachings of Cook and Wickstead, and has not provided a showing that it is the prior art and not the Appellant's own disclosure that has prompted the combination of Cook and Wickstead asserted by the Examiner.

Furthermore, claim 11 depends from and further restricts Claim 1, and Claim 18 depends from and further restricts Claim 15. Wickstead does not supply the deficiencies in Cook as described above, and claims 11 and 18 should also be allowable in their present form, at least by virtue of their dependency.

Therefore, claims 11 and 18 are believed to patentably distinguish over Cook in view of Wickstead, and it is respectfully requested that the Board reverse the Examiner's Final Rejection of those claims.



Gerald H. Glanzman
Reg. No. 25,035
YEE & ASSOCIATES, P.C.
PO Box 802333
Dallas, TX 75380
(972) 385-8777

CLAIMS APPENDIX

The text of the claims involved in the appeal are:

1. A wireless communications system for communicating with a computer infrastructure of an organization comprising:
 - a portable unit including a user interface;
 - a computer infrastructure interface;
 - a voice recognition unit associated with said computer infrastructure interface, said voice recognition unit permitting a user of the portable unit to communicate with the computer infrastructure by voice communication;
 - a wireless communications link for connecting said user interface and said computer infrastructure interface, said wireless communications link covering an area designated by the organization for permitting a user of the portable unit to access said computer infrastructure when the portable unit is within the designated area; and
 - at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable unit to also access the computer infrastructure when the portable unit is within the at least one extended designated area.
2. The wireless communications system according to Claim 1, wherein said user interface comprises a two-way voice interface and wherein a voice recognition unit and a voice generation unit are associated with said computer infrastructure interface to permit two-way voice communication between said user and said computer infrastructure.
3. The wireless communications system according to Claim 1, wherein said wireless communications link comprises a cellular communications system.

4. The wireless communications system according to Claim 3, wherein said cellular communications system comprises a first transmit/receive unit in said portable unit, a second transmit/receive unit associated with said computer infrastructure and a cellular base station for handling transmission of signals between said first and second transmit/receive units.

5. The wireless communications system according to Claim 3, wherein said cellular communications system operates at a bandwidth of less than 100kbts/sec.

6. The wireless communications system according to Claim 1, wherein said organization comprises a university, and wherein said designated area comprises a campus of the university.

7. The wireless communications system according to Claim 1, wherein said organization comprises a company, and wherein said designated area comprises facilities of said company.

8. The wireless communications system according to Claim 1, wherein said system further includes an authentication capability for authenticating a user of said portable unit for access to secured facilities of said organization.

9. The wireless communications system according to Claim 8, wherein said authentication capability includes an authentication device in said portable unit.

10. The wireless communications system according to Claim 8, wherein said authentication capability comprises a software-based voice recognition capability associated with said computer infrastructure.

11. The wireless communications system according to Claim 1 wherein said portable unit is configured to be worn by the user.

12. The wireless communications system according to Claim 1, wherein said system includes a plurality of portable units to permit a plurality of users to access the computer infrastructure of the organization.

13. The wireless communications system according to Claim 1, wherein said system includes an Internet access capability.

15. In combination, a computer infrastructure of an organization and a wireless communications system for enabling at least one individual to communicate with and to utilize features and capabilities of said computer infrastructure, said wireless communications system comprising:

a portable unit for each said at least one individual, each portable unit including a two-way voice interface;

a computer infrastructure interface;

a voice recognition unit and a voice generation unit associated with said computer infrastructure interface;

a wireless communications link for connecting the user interface for each portable unit and the computer infrastructure interface, the wireless communications link covering an area

designated by the organization for permitting each at least one individual to access the computer infrastructure by voice communication when the individual's respective portable unit is within the designated area; and

at least one remote access node for creating at least one extended designated area of said designated area for permitting at least one of said at least one individual to also access the computer infrastructure when the portable unit of said at least one of said at least one individual is within the at least one extended designated area.

16. The combination according to Claim 15, wherein said wireless communications link comprises a cellular communications system.

17. The combination according to Claim 16, wherein said cellular communications system includes a first transmit/receive unit in each said portable unit, a second transmit/receive unit associated with said computer infrastructure, and a cellular base station for handling the transmission of signals between each said first transmit/receive units and said second transmit/receive unit.

18. The combination according to Claim 15, wherein said each said portable unit is configured to be worn by the user.

19. The combination according to Claim 15, wherein said wireless communications system further includes an authentication capability for authenticating access to secured facilities in said designated area.

20. The combination according to Claim 15, wherein said features and capabilities include at least one of voice communication, directory look-up, calendaring, facility reservation and E-mail send and receive.

21. A wireless communications system for communicating with a computer infrastructure of an organization comprising:

a portable communications unit including a user interface;

a computer infrastructure interface;

a wireless communications link for connecting said user interface and said computer infrastructure interface, said wireless communications link covering an area designated by the organization for permitting a user of the portable communications unit to access said computer infrastructure when the portable communications unit is within the designated area; and

at least one remote access node for creating at least one extended designated area of said designated area for permitting a user of the portable communications unit to also access the computer infrastructure when the portable communications unit is within the at least one extended designated area.

EVIDENCE APPENDIX

There is no evidence to be presented.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.